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ABSTRACT

High numbers of high school students are leaving New York City public schools without graduating. Some school officials are encouraging students to leave regular high school programs, despite their being of school age and have the right to receive appropriate literacy, support, and educational services through the public school system. This report explores data documenting New York City students who have been designated as discharged from the school system. More than 160,000 high school age students were discharged during the 2000-2001, 1999-1998, and 1998-1997 school years. Anecdotal evidence suggests that many of these discharges are forced push-outs by school administrators of students who have a legal right to remain in school. Both students and parents complain that there is no process for the discharge, they are never informed of their rights to remain in school until age 21 years, and they are not offered support services. In 2001, 79 out of 205 high schools and retrieval programs had exceptionally high discharge numbers (31 discharged more than they graduated). Discharge rates were significantly higher than dropout rates. Recent school policy changes that created higher standards for graduation may contribute to the discharge phenomenon. Many of the discharged students attend General Equivalency Diploma (GED) programs. The report concludes with the recommendation that the Department of Education should conduct an analysis of the discharge rate including demographics of discharged students, reasons for discharge, whether students discharged were disabled, English Language Learners, or had special needs.(SM)

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ED 471 513

Pushing Out At-Risk Students:

An Analysis of High School Discharge Figures

A Report by:

The Public Advocate for the City of New York

Betsy Gotbaum
Public Advocate

&

ADVOCATES FOR CHILDREN

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UD 035 395

Executive Summary

An alarming number of high schools students are leaving New York City public schools without graduating. It appears that in some cases school officials are encouraging students to leave regular high school programs even though they are of school age or have a right to receive appropriate literacy, support, and educational services through the public school system.

This report explores data documenting students in New York City, who have been designated as discharged from the school system, an indicator that has received little public attention.

Advocates for Children of New York (AFC) and the Office of Public Advocate Betsy Gotbaum reviewed discharge data published by the New York City Department of Education (DOE) and found that over 160,000 high school age students were discharged during the 2000-2001, 1999-1998, and 1998-1997 school years.

Anecdotal evidence collected by both offices suggests than many of these discharges may be forced push-outs by school administrators of students, who have a legal right to remain in public schools. Both students and parents complained that there was no process for the discharge, that they were never informed of their rights to stay in school until the age of 21, and were not offered support services to improve academic performance or attendance.

A separate analysis of the Class of 2001 cohort — also included in the report — revealed that citywide, 79 out of 205 high schools and retrieval programs had exceptionally high discharge numbers: 31 discharged more 2001 students than they were graduating and 48 discharged more than half the number of students they graduated.

Discharge rates were also significantly higher than dropout rates. In 2001, more than 55,015 students were discharged, compared with 14,549 who dropped out from the same group of schools. What is alarming is that discharge rates may be used to mask

potentially higher drop out statistics. It appears that many children are moving from schools that offer regular diplomas to programs that offer a General Equivalency Diploma (GED).

Recent school policy changes that created higher standards for graduation may be contributing to the discharge phenomenon. Students who are unable to pass Regents exams no longer have the middle option of attaining a local, non-Regents diploma, or graduating from an alternative school that uses portfolio assessments as graduation measures. Today, they either have to pass the Regents, or get a GED. Additionally, budget cuts may be impeding schools from providing supplemental educational support services to those students most likely to not graduate.

Many of the discharged students seem to be attending GED programs. Over the past 12-18 months, adult literacy programs have reported as much as a 30-40% increase in 16 and 17 year-old students applying for GEDs. Unfortunately, GEDs limit students job prospects and diminish the intellectual capital in New York City.

Perhaps what is most disturbing about the data, is that the DOE does not have a breakdown of the discharge rates, including: demographics of the discharged students; information on how far they have come in completing the high school curriculum; reasons for discharge; whether they were disabled, English Language Learners (ELL), or students with other special needs. The analysis of such data is needed in order to understand the extent of the problem and craft appropriate solutions.

Advocates for Children and Public Advocate Betsy Gotbaum recommend the following:

- DOE should conduct an extensive analysis of which students are affected, including a clear breakdown of all discharges and drop-outs for children ages 21 and under, and the reasons they are no longer in the public school system

- The DOE must issue directives on discharge policy and procedure and student rights to high school admissions offices, all principals, and superintendents

- Students who were improperly discharged, transferred, or were refused enrollment should get a letter from the DOE outlining their rights and a method of re-enrolling and obtaining services needed

- The New York State Education Department must determine whether City schools are pushing at-risk students out

- The DOE should ensure that all existing regulations comport with relevant state and federal law and, if not, revise those policies

Overview

The New York City Department of Education defines a discharged student as one who left the school system primarily to enroll in another educational program or setting. This includes students who enrolled in a local private or parochial school, enrolled in a school outside of New York City or entered a non-Board of Education GED preparation program. [1] Yet discharge numbers may actually be masking a real push-out problem.

By conducting a preliminary examination of discharge data published by the New York City Department of Education (DOE), Advocates for Children of New York (AFC) and the Office of Public Advocate Betsy Gotbaum discovered that over 160,000 high school age students were discharged during the 1997-1998, 1999-2000, and 2000-2001 school years. In all, over 55,000 were discharged in 2000-2001.[2] To give a sense of how large these numbers are, the entire graduating class of 2001 totaled 33,520 students[3]. For example, Martin Luther King High School discharged 730 kids out of 2510 in 00- 01. In some cases, schools discharged more students than the number of students who received diplomas.

Coupled with anecdotal information, this data suggests that in New York City, students who are at-risk, or who will need extra years to graduate, may be encouraged to leave regular high schools or be pushed out. A combination of recent factors may explain this, including: budget cuts; more stringent graduation standards; the No Child Left Behind Act (where students may leave failing schools); and merit pay for principals with successful schools.

It appears that new policies and laws designed to help at-risk students may be working against them. First, more stringent graduation requirements set by the New York State

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[1] New York City Department of Education, *Class of 2001 Four Year Longitudinal Report and 2000-2001 Event Dropout Rates*, March 2002.

[2] We do not have the discharge figures for 2001-2002 school year.

[3] This number reflects only students of the class of 2001 who graduated with a Regents Diploma, Local Diploma, GED, IEP Diploma or a Certificate. According to the Department, 18, 815 students of the class of 2001 are still enrolled in high school or GED programs.

Regents have raised the bar for high school graduation. Second, although the state has targeted low-performing schools for reform for several years, the federal No Child Left Behind Act has now raised the stakes considerably, putting more pressure on superintendents and principals to meet higher standards. Schools that do not demonstrate that students are meeting standards are designated as low performing. Schools with disciplinary incidents are labeled as unsafe. Such schools are at serious risk of being taken over and reorganized.

While historically the pattern was often to keep at-risk and low-performing students in school, these increased pressures may be creating an incentive for New York City high schools to discharge students, counsel them, leave regular schools, or to prevent low-performing students from attending schools at all.

Our findings also suggest that students and parents may not be provided with sufficient information about the right to remain in school or the right to receive support services necessary to help their children meet the new standards. New York State law requires all students 6-17 to be in a regular school; allows all students to stay in a regular high school until the age of 21; and prohibits almost all involuntary discharges and transfers without due process.

A study conducted in 2001 for the New York State Education Finance Resource Consortium supports our anecdotal data. The Study found that in order to keep performance levels up, principals across the state were employing a variety of strategies to push at-risk or low performing students out of school and into General Equivalency Diploma (GED) programs.[4] While this study did not include New York City, there is growing anecdotal evidence that many New York City students under the age of 21 have been discharged and denied the education, which they are entitled.

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[4] Monk, Davis H., and John W. Sipple. Graduation Requirements: An Eight-Year Retrospective. New York: New York State Educational Finance Research Consortium, 2001

Additionally, a recent report by the New York Citywide School to Work Alliance recognized that over the past 12-18 months the adult literacy programs have reported a significant increase in the number of younger adults, 16-18 years of age applying for GEDs.[5] This report also questioned whether student advisors, who are encouraging students to leave school and enroll in GED programs, understand the competency required to earn an equivalency diploma or the actual value of this diploma. [6]

Advocates for Children and the Office of the Public Advocate recognize that a number of students are legitimately discharged from high schools each year. Many families move from borough to borough or out of the City entirely. Some students transfer out of the public system into private schools. But the sheer volume of recent discharges demands analysis of where students are going and whether the numbers mask a growing trend to push-out students. We also recognize that some students need more academic services in a system that often does not have enough resources. However, pushing students out through the discharge process is not the answer.

This report also suggests that DOE reporting must be modified to include information about types of discharges. Since not all schools are reporting discharges, it is important to know the citywide discharge numbers for all schools. It is also necessary to know the demographics of discharged students and where they are going after they have been discharged. We must understand the disparity in discharge rates among schools and the breakdown of the number of students who earn regular diplomas compared to those who earn GEDs or are enrolled in GED programs. Incorrect discharges also raise the question of school access for older students. Are they being allowed to re-enroll in regular high schools, as is required by law, or are they instead directed towards GED classes?

DOE data deficiencies notwithstanding, it is clear: significant numbers of New York City students are leaving the school system without receiving regular high school diplomas.

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[5] New York Citywide School to Work Alliance Briefing, What s Up with the Rapid Increase of Young People in GED and Adult Education Programs, Beckwith, J. (2002) (the Alliance Briefing).
[6] Id. at 10-11.

The report is divided into four sections. Section I provides a summary of available data, as well as some anecdotal reports received by our agencies. Section II contains an overview of educational law governing the right to school access in the State of New York. Section III provides available alternatives to the traditional high school and the implications of new graduation requirements on these alternatives. Section IV presents recommendations for addressing these issues.

I. Analysis of Available Data

What constitutes a discharge? The answer varies based on the documents reviewed.

We reviewed discharge and dropout data contained in the Class of 2001 Four-Year Longitudinal Report and 2000-2001 Event Drop Out Rates published in March 2001 (2001 Longitudinal Report). This report publishes four-year outcomes for the class of 2001 on a citywide and school specific-basis. It also contains drop out rates for the class of 2001 as well as total drop out numbers for the city and the schools. In this report, discharges are defined as students who left the public school system in New York City to enroll in another educational program or who outgrew the system at age 21.[7]

We also examined 2000-2001, 1999-2000, and 1999-1998 data from School Profile Reports that provide a three-year listing of student mobility rate (admissions and discharges during the school year). Like other data included in this report, this data is not broken down by type of discharge. In some cases, we compared data from the 2001 Longitudinal Report with the School Profile data. In contrast to the discharge figures, the drop-out figures for the schools, whose School Profile reports we reviewed, amounted to only 14,544.[8].

While the 55,000 discharge figure is very large, it does not represent the true number of citywide discharges, since many schools and programs did not produce discharge numbers. For example, the Department reports that there are more than 19,000 students on register at Retrieval programs (programs designed for older students which may be GED based or provide the opportunity to earn accelerated credits), but these schools do not produce discharge reports. Moreover, the Department does not provide data regarding the number of disabled students who are discharged from District 75, the

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[7] The Class of 2001 Four-Year Longitudinal Report at 3

[8] We do not know whether the profile reports include students who are considered to be dropouts. If the Department does include its official drop outs in these discharge profiles, they would, at most, account for a small portion of discharged students according to Department statistics.

centrally operated, 20,000-student special education district for moderately to severely disabled students.[9]

A. School Profiles

Drop out rates are frequently criticized as disproportionately high, yet they pale in comparison to the discharge figures outlined below. These discharge figures may actually mask even greater drop out rates.

The high school mobility figures for 2000-2001, 1999-2000, and 1998-1999, show that more than 160,000 students (or at least 20%) were discharged: 55,015 in 2000-2001, 60,403 in 1999-2000, and 55,773 in 1998-1999. Each high school superintendency[10] reported individual discharge numbers. We compared these to the official drop out figures for 2000-2001.[11]

2000-2001	# Discharges	# Drop Outs
Bronx	11,078	3,012
Chancellor s	746	157
Alternative[12]	4,288	1,443
Queens	13,948	4,054
Brooklyn	9,289	2,362
Manhattan	7,736	1,947
BASIS	7,208	1,574

For the prior two years, most districts reported approximately the same numbers, except in the 1999-2000 school year, in which the Chancellor s district discharged 1,432.

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[9] We also looked briefly at some register data on the Department s website, but in most cases it was inconclusive and appeared to be inconsistent with the other reports. In some cases, high school registers for the 2001-2002 school year had hundreds less students than registers for the prior years. However, for certain schools, we viewed a significant drop in enrollment between September and May. We also reviewed school report cards that the New York City Department of Education releases each year.

[10] The New York City High Schools are split up into superintendencies: Manhattan, Bronx, Queens, Brooklyn, BASIS (part of Brooklyn and Staten Island), Chancellor s District and Alternative.

[11] Again, an outstanding question is whether the profile figures include the dropouts or are in addition to the drop out data.

[12] The District-wide profile listed a smaller figure, but when we added up school-by-school figures for the alternative and alternative transfer schools, we came up with the number inserted in this table.

We conducted an analysis of the discharges for the 2000-2001 school year including discharge rates for every high school for which there was a report (Appendix A).

The report also looks at five schools in each high school superintendency that had the highest discharge rates.

Manhattan				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Norman Thomas	1952	418	21.47	104
Park West	2199	604	27.47	167
Seward Park	2175	629	28.92	257
MLK	2510	730	29.08	136
Louis D. Brandeis High School	2828	867	30.66	274

Other Manhattan schools also reported large numbers of discharged students, including: Washington Irving (436 discharges but only 151 drop outs), Murray Bergtraum (366 discharges but only 111 drop outs), and Graphic Communication Arts (339 discharges but only 50 drop outs).

Queens				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Flushing	2536	589	23.23	186
Beach Channel	2084	496	23.80	117
Far Rockaway	1377	359	26.07	105
Franklin K. Lane	3444	959	27.85	299
Springfield Gardens HS	2089	584	27.96	144

The following Queens schools also discharged noticeably high numbers of students: Newtown High School (937 discharges but only 312 drop outs), John Adams (919

discharges but only 335 drop outs), John Bowne (857 discharges but only 237 drop outs), and William Bryant (755 discharges but only 221 drop outs).

Brooklyn				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Thomas Jefferson	1646	456	27.70	80
George Wingate	2567	743	28.94	264
Bushwick	1843	541	29.35	168
Erasmus Hall: HS for Science/Math	759	228	30.04	38
Prospect Heights	2006	612	30.51	185

The following Brooklyn schools also discharged large numbers of students: Sheepshead Bay (656 discharges but only 136 drop outs), FDR (624 discharges but only 146 drop outs), John Dewey (600 discharges but only 150 drop outs), and South Shore (575 discharges but only 129 drop outs).

Bronx				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Adlai E. Stevenson	2878	826	28.70	201
Evander Childs	3443	1009	29.31	265
Theodore Roosevelt	4166	1297	31.13	413
Morris	1788	571	31.94	134
Taft	2493	1018	40.83	369

The following Bronx schools also discharged large numbers of students: JFK (955 discharges but only 204 drop outs), Christopher Columbus (890 discharges but only 189 drop outs), Dewitt Clinton (708 discharges but only 201 drop outs), and Herbert H. Lehman (663 discharges but only 199 drop outs).

BASIS				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Lafayette	2347	525	22.37	129
Boys and Girls	3360	788	23.45	167
Automotive Trades	824	209	25.36	42
Harry Van Arsdale	1430	384	26.85	101
John Jay	2502	798	31.89	237

The following Basis schools also discharged large numbers of students: Fort Hamilton (587 discharges but only 170 drop outs), Abraham Lincoln (551 discharges but only 147 drop outs), and Tottenville (478 discharges but only 101 drop outs).

Alternative High Schools				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Vanguard HS	330	75	22.73	12
Legacy School	295	73	24.75	19
CPESS	313	79	25.24	19
New School for Arts and Sciences	357	98	27.45	18
Monroe Academy for Business/Law	516	162	31.40	35

Alternative Transfer High Schools				
Name of School	**Peak Enrollment (00-01)**	**# Discharges**	**% Discharges**	**Total Drop Outs 00-01**
Street Academy	485	208	42.89	134
Pacific HS	372	171	45.97	28
Concord	201	96	47.76	26
HS Redirection	855	462	54.04	155
Phoenix Academy	390	278	71.28	69

The following alternative schools also discharged large numbers of students: City-as-School (364 discharges but only 50 drop outs), Lower East Side Prep (227 discharges but only 77 drop outs), and University Heights (169 discharges but only 54 drop outs).

Incomplete DOE Data

These discharge profiles do not tell a complete story of all high-school-age students who are leaving the city s high schools because the profiles do not include students who were discharged from auxiliary programs and District 75 programs and schools. According to DOE data, there are more than 40,000 students in these schools.

B. Cohort Data

The Class of 2001 Four Year Longitudinal Report and 2000-2001 Event Dropout Rates report released by the DOE earlier this year shows that approximately 14,101 students in the 2001 cohort were discharged between the period of 1997-2001. The 2001 cohort consists of all students, both general and special education, who entered ninth grade in the fall of 1997 and were scheduled to graduate by summer 2001.

We conducted an analysis of the discharges from each high school superintendency. The charts show schools where a greater number of students were discharged than graduated or where the discharge level was more than half of those graduating.

Citywide

Citywide, 79 out of 205 high schools and retrieval programs had exceptionally high discharge numbers: 31 discharged more students than they were graduating and 48 discharged more than half the number of students they graduated. In addition, 52 out of the 79 schools and programs had significantly higher discharge numbers than dropouts.

Manhattan			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
Seward Park	175	135	124
Park West	126	117	124
MLK High School	109	154	84
Leadership Secondary School	17	14	9

Of the 35 schools in the Manhattan high school superintendency, seven schools had high discharge numbers. Three discharged more students than they graduated. Four discharged more than half the number of students they graduated. Six out of the seven schools had higher discharge numbers than dropouts.

Bronx			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
John F. Kennedy	273	325	124
Taft	253	123	157
Evander Childs	224	162	138
Thedore Roosevelt	211	139	155
Christopher Columbus	211	267	85

Of the 22 Bronx high schools, 13 had high discharge numbers. Five schools discharged more students than they graduated. Eight schools discharged more than half the number of students they graduated. In thirteen schools, the number of students discharged was significantly more than the number of dropouts.

Brooklyn			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
Franklin D. Roosevelt	234	407	71
Bushwick	150	76	101
Thomas Jefferson	119	67	39
George Wingate	101	152	126

Of the 27 Brooklyn high schools, ten had high discharge numbers. Four schools discharged more students than they graduated while six schools discharged more than half the number of students they graduated. At least 25 of the schools had higher discharge numbers than dropouts.

Queens			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
Richmond Hill	210	334	80
Franklin K. Lane	168	212	206
Renaissance	5	0	0

Of the 35 Queens high schools, 15 had high discharge numbers. Fourteen schools discharged more than half the number of students they graduated, and 13 showed higher discharge numbers than dropouts.

BASIS			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
John Jay	169	170	146
Lafayette	151	289	72

Of 21 B.A.S.I.S high schools, four schools discharged more than half the number of students they graduated. All four showed higher discharge numbers than dropouts.

Alternative High Schools			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
Lower East Side Prep	69	98	38
H.S of World Cultures	56	14	1
Satellite Academy	46	49	99
Street Academy	24	11	29

Of the 41 Alternative high schools, 19 had high discharge numbers. Six schools discharged more students than they graduated. Thirteen schools discharged more than half the number of students they graduated. In eight schools, the number of students discharged was significantly more than the number of dropouts.

Retrieval Programs			
Name of School	**# Discharges**	**# Graduated**	**#Dropped Out**
Career Education Center	213	167	223
Bushwick Outreach	28	11	41
Upper Manhattan West Outreach	10	19	31

Retrieval programs are for students facing special problems, ranging from substance abuse to criminal activity. These programs provide individualized academic and personal assistance, so students can return to high schools or prepare for the GED. Of the 24 retrieval programs, 11 schools had high discharge numbers. Ten discharged more students than they graduated. All of the retrieval programs had higher dropout numbers than discharges.

Cohort Analysis

Our analysis revealed that in a number of schools, many more students are being discharged than are graduating. It also shows that many schools have more discharges than dropouts. The cohort report states that students who are discharged from the school system no longer attend the New York City public schools . . .. As such, it is inappropriate to hold schools accountable for these students, and they are not included in

the final statistics for the study group. [13] This leads us to question of where these students are going.

C. Anecdotal Profiles

Clearly, a large number of students are leaving regular high school programs and we have anecdotal evidence that suggests that improper discharges are occurring.

In February 2002, *City Limits* published a story about the number of students under the age of 18 who are flocking to adult GED preparation programs.[14] The article reported on the following programs:

- Discipleship Educational Center reported that almost 30% of its students were 16;
- 40% of Flatbush Development Corporation s GED program participants were aged 16-17;
- Linden Learning Center reported that 16 and 17-year-olds outnumbered all other students in the program.

The *City Limits* article also reported that program administrators of GED providers were seeing students who demonstrated signs of learning disabilities and evidenced directives from school administrators to discharge 17-year-old students for a lack of credits.

Our offices have also received anecdotal reports that provide further basis for concern regarding the issue of discharges/pushouts:

Students with Almost Enough Credits and/or Exams to Graduate

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[13] Ibid.
[14] Learning Disabled, City Limits 2.27.2002, Grier, M.

19-year-old Student A was discharged from school after completing all required coursework but failing the math regents several times. He has spent more than one year out of school.

18-year-old student B left the juvenile justice system more than a year ago and has not been in school since that time. She has more than 35 credits and one Regent s exam; reports indicate she is a probable high school graduate. However, when she tried to enroll in a regular school, she was told she should just find a GED program.

19-year-old Student C was discharged one month ago from an Alternative High School. He has 30 credits and most of his Regents Exams. He spent one month out of school and just found out he won t get full credit for the rest of the semester due to absences.

Students with 15 or Less Credits

17-year-old Student D showed up at school to find a blank program card; she was told she was no longer enrolled because of poor grades.

17-year-old Student E was told he simply did not have enough credits to graduate and must transfer to a GED program.

Students with Disabilities Who Are Discharged

15-year-old Student F with a learning disability was never evaluated; instead, he was placed in regular classes without any tutoring or services. When he was 16, he was told he had to transfer to a GED program. He spent two months out of school and then was enrolled in a GED program in the morning and sent home for the rest of the day. He is still out of school.

18-year-old Student G has an emotional disability and was discharged from her school in November 2001. She recently re-enrolled, after missing 11 months of school. The first time she was discharged, she missed approximately 5 months of school.

17-year-old student H has a learning disability. He was discharged from his school in June 2002 and was out of school until mid-October 2002.

English Language Learner (ELL) Students

AFC and the New York Immigration Coalition issued a report this past summer highlighting the large numbers of ELL students who dropped out of school or were denied educational services. Many immigrant students are denied access to high school, told they are too old, or told their English is not proficient enough to pass the Regents. These students account for a large number of the students out of school.[15]

[15] Creating a Formula for Success: Why English Language Learner Students Are Dropping Out of School, and How to Increase Graduation Rates (June, 2002).

II. What Are Schools Required to Provide to Students?[16]

A. The Right to Attend School and Scope of Required Attendance

Any person over five and under 21 years of age, who lives in New York City and has not received a regular high school diploma, is entitled to attend a public school.[17] State law mandates full-time instruction for students until the age of 16 and allows certain jurisdictions to extend the age of required school attendance. In New York City, the compulsory school age is 17. New York State funding regulations define full-time instruction to mean at least 5 _ hours per day. [18]

Federal, state, and local laws and regulations provide a wide net of services and rights for older students, many of which are not widely understood or enforced by school and district administrators. Except in limited circumstances, schools are generally prohibited from asking students to leave, involuntarily discharging or transferring them, or steering students into GED programs.

The State law allows a school to drop from enrollment a student over compulsory school age (between the ages of 18-21) if the student has been absent 20 consecutive school days, although that student does have the right to re-enroll. Such students cannot be discharged unless the student and guardian are first given sufficient opportunity for a conference with the school administrator. Moreover, students cannot be dropped or discharged unless certain procedures are followed, which include notice of the right to re-

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[16] This report does not discuss federal statutes or judicial decisions, other than statutes specifically concerning students with disabilities. The impact of the federal No Child Left Behind Act on these issues is still an unresolved question.

[17] NY Ed. Law/3202(1).

[18] 8 NYCRR 175.5. Part-time instruction is defined under the New York State Education Law to mean at least 20 hours per week...

enroll in school until the age of 21.[19] Students who are truant should also be screened to determine if they should be referred for an evaluation for a suspected disability.

Students with disabilities cannot be discharged without parental consent and other notices. State and federal law mandate that certain intervention services are provided to students who are at-risk, which the principal must consider in making a determination of whether reasonable changes in the child s program could help his/her attendance.

New York State law also contains procedures for how students can be transferred from one school to another. These provisions protect students from being transferred out of a school or into a GED program without their consent and/or agreement from their parents. A principal can initiate a non-requested transfer if a more appropriate education is available elsewhere, provided the school holds a pre-transfer conference with the parents, provides written notice, and offers an opportunity for a full hearing.[20]

In addition to prohibitions on transfers and discharges, state and local laws contain detailed procedures that must be followed before students are suspended or expelled. While a discussion of these rules is beyond the scope of this report, it should be noted that no student can be expelled, suspended or excluded from school based on behavior without following due process protections and must receive alternative instruction during the period of suspension.[21]

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[19] The procedures for dropping a student from enrollment must include the following (1) The principal or superintendent shall schedule and notify, in writing and at the last known address, both the student and the parent (or person in parental relation) of an informal conference. At the conference, the school administrator shall determine both the reasons for the absence and whether reasonable changes in the pupil's educational program would encourage and facilitate his or her re-entry or continuance of study; (2) The pupil and the person in parental relation shall be informed orally and in writing of the pupil's right to re-enroll at any time in the public school maintained in the district where he or she resides; (3) If the pupil and the parent fail, after reasonable notice, to attend the informal conference, the pupil may be dropped from enrollment provided that the student and the parent are notified in writing of the right to re-enter at any time, if otherwise qualified under this section. Education Law/ 3202(1)(a).

[20] See NY Ed. Law/3214(5) and Chancellor s Regulation A-450.

[21] See NY Ed. Law Section 3214 and Chancellor s Regulation A-443.

B. Graduation and Promotion Requirements

Academic standards for high school graduation were substantially revised by new State and City policy and are now significantly more stringent than in previous years. Prior to these changes, a student could receive a local diploma with 40 credits and a select core of curriculum credits. Students also had to demonstrate competence in reading, math, science, global studies, and United States history by passing Regents competency tests. New York State's new graduation requirements now mean students pass five Regents subject examinations in English, mathematics, global studies, United States history and government, and science. For the first time, in June 2000, all students in a graduating cohort (those who entered 9th grade in 1996) were required to pass the English Language Arts Regents exam in order to graduate, regardless of how long they had been in the United States, their level of English proficiency, or the educational services that they had received. The additional Regents exams are being phased in gradually through 2004, and the local diploma option is being phased out.[22]

C. What Educational Services Are Students Entitled to Receive?

In addition to prohibitions and restrictions on discharges and transfers, State law clearly spells out a number of entitlements to schools if students are struggling academically, are truant, or are having behavior problems. It is important to be aware of these entitlements, as in our experience many parents do not have information about the services to which their students are entitled and may agree to a transfer or discharge without understanding their rights. Anecdotal evidence suggests that many of the students who are dropping out

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[22] The following summary provides a brief review of the graduation requirements for students in the Class of 2000 through the Class of 2004.

- Class of 2000: Pass the English Regents Exam with a score of 55.
- Class of 2001: Pass the English Regents Exam with a score of 55 and the new Math Regents exam with a score of 55.
- Class of 2002: Pass the English and Math Regents Exams (score of 55) and United States History and Global Studies (score of 55).
- Class of 2003: Pass the English, Math, United States History and Global Studies Exams (score of 55) and the Science exam (score of 55).
- Class of 2004: Pass all five exams with a score of 55.

Class of 2005: Pass all five exams with a score of 65. Students with disabilities will have a safety net that allows them to continue to earn the local diploma for a few additional years.

or being discharged are not being offered the services and support they are entitled to that may help them stay in school.

The Right to Instruction Designed to Meet Regents Standards

First, the New York State Commissioner s regulations require that each school district offers all students in its schools the opportunity to meet all the requirements to receive a Regents high school diploma. Students must have the opportunity to take Regents courses in grades 9 through 12 and, when appropriate, in grade eight.[23] This suggests that students should be provided with the appropriate course work necessary to prepare for exit exams and earn all required credits.

Services To Help Students Meet Standards and Improve Attendance and Behavior

In addition to being entitled to specific coursework, struggling students must also get access to services to help them meet standards and improve attendance. Thus, instead of being discharged or written off as a drop out or transferred to a GED program, schools should first try to enable a student to obtain a regular diploma, using the following methods:

Guidance Services[24]

Students in grades 7 through 12 are supposed to get an annual review of their educational progress and career plans (individually or in small groups) by school counselors and instruction at each grade level about careers and career planning skills. In addition, students are entitled to advisory and individual or group counseling to enable them to benefit from the curriculum and help them develop and implement postsecondary education and career plans. Guidance services can

[23] 8 NYCRR 100.2(e)

[24] *NYCRR 100.2(j)

also be used to assist students who exhibit any attendance, academic, behavioral or adjustment problems and to encourage parental involvement. [25]

Educationally Related Support Services (ERSS)[26]

ERSS are psychological, social work services, and non-career counseling services provided by qualified professional personnel.[27] They may include counseling, speech and language improvement services, small group instruction, modified curricula, individualized tutoring, and other such strategies that have demonstrated success. ERSS must include parental involvement, to the greatest extent possible. State regulations contain specific procedures for obtaining ERSS.

In general, the following students may be eligible for ERSS: (a) students who evidence educational, behavioral, personality or social difficulties that are situational and/or amenable to intervention or a speech impairment that does not adversely affect the student's educational performance; (b) secondary students under suspension, (c) students transferring from juvenile placement or (d) students identified as having a disability but not eligible for special education services. Students must be able to receive and benefit from services in regular education and maintain placement if ERSS are provided.

Academic Intervention Services (AIS)

Students in grades 9 through 12 are entitled to receive academic intervention services when they:

(i) score below the State designated performance level on one or more of the State intermediate assessments in English language arts, mathematics, social studies or

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[25] *NYCRR 100.2(j). Each High School Superintendency must submit a separate plan for guidance services, which should be filed in the district offices and be made available for review by any individual (including a parent). Thus, one can investigate how these services are being provided.

[26] NYS Ed. Law/3602(32); 8 NYCRR 100.2(v)

[27] NYS Ed. Law/3601-a

science or score below the State designated performance level on the RCTs or Regents examinations; or

(ii) are limited English proficient students (LEP) and are at risk of not achieving State learning standards through English or the student s native language; or

(iii) are determined, through a district-developed or adopted procedure to be at risk of not achieving any of the state learning standards.

AIS is required to start no later than the beginning of the semester, following a determination that a student needs such services and must continue until the student meets or exceeds state performance levels on the next assessment or is shown to be able to meet that level through achievement on a city assessment. Parents of eligible students are to be notified in writing by the principal with a summary of the AIS, the reason the student needs services, the consequences of not achieving expected performance levels, a notice when services are no longer needed, and lastly progress reports.

Instruction for English Language Learner Students

In adopting the new graduation requirements, the New York State Board of Regents recognized that significant improvements and enhancements in the education provided to ELLs were needed. School districts were required to adopt a 12 Step Action Plan specifically designed to assist ELLs to meet the graduation requirements. Unfortunately, this plan has not been implemented properly in NYC and as a result, ELLs have not been provided with the preparation they need to experience school success. [28] A large number of the students discharged may be ELLs.

A State law requires that every person from seventeen to twenty-one years of age, who is unable to speak, read and write English as required for the completion of

[28] [28] Creating a Formula for Success: Why English Language Learner Students Are Dropping Out of School, and How to Increase Graduation Rates, pp. 37-45 (June, 2002).

the fifth year of the elementary school course of study and who is not attending equivalent day instruction, shall be provided the opportunity to attend evening instruction.[29]

Required Screening for At-Risk Students

In addition to the services outlined above, many students who are struggling academically or who are chronically truant may be exhibiting behavior or performance problems that may lead a reasonable school administrator to suspect a child has a disability that is affecting his or her ability to learn or is justifying the need for accommodations or modifications, must be screened to determine whether a disability is present. A federal law requires that the school system have procedures to screen potentially disabled students, who are being discharged voluntarily. Moreover, state law specifically requires a limited screening of all students who score comparable to level 2 on the Regents preliminary competency tests.[30]

Students with Disabilities

Federal and state law provides that students with disabilities (i.e. one who received or who has received special education services, Section 504 accommodations, medication in school, etc.) are entitled to receive a Free Appropriate Public Education (FAPE) until the age of 21 or until they graduate with a regular high school diploma (not a GED).

For eligible students, FAPE includes special education and related services provided in the least restrictive environment sufficient to enable the student to progress in the general education curriculum, that is, the general standards for students without disabilities. FAPE also includes a coordinated set of transition services designed to assist the student to adult outcomes, including post-secondary education and employment.

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[29] Education Law/3207. It is not clear how this provision of the law is to be enforced.

[30] See NY CLS Educ/3208.

Students with disabilities cannot be discharged or transferred against their parents wishes unless a series of procedures are followed. These include but are not limited to (1) re-evaluation; (2) parental notice of federal rights, and (3) parental consent. Students who were denied FAPE or discharged in violation of the law may be entitled to compensatory services including tutoring or services past the age of 21. Students with disabilities entering 9th grade between 1996-2004 also have a safety net for graduation: they may obtain a local diploma by taking the Regents Competency Test (RCT) instead of Regents exams, provided certain conditions are met.

III. What Are the Available Alternatives and the Impact of New Regents Regulations on these Alternatives?

Students previously had the option of obtaining a local diploma, a Regents diploma, attending one of New York City s alternative programs that used assessments other than exams, or obtaining a GED. Today, students have only two options; a Regents Diploma or a GED. In this section, we will outline the available alternatives to students offered by the DOE, both in terms of school type and certification, and the impact that new Regents regulations have had on these alternatives.

High school students in our city have the option of attending traditionally zoned Academic/Comprehensive High Schools, Vocational/Technical Education High Schools, Specialized High Schools, Alternative Schools, or Charter Schools. Students over compulsory school age who are unsuccessful in these institutions or wish to leave the school system to seek employment can enroll in adult education programs.

A. Alternative Schools

Alternative schools have smaller settings and many emphasize academic and personal support. Approximately 40,470 New York City High School students attend alternative schools and programs. They are either enrolled in the 41 alternative high schools or placed in what are termed special programs . The two types of alternative schools, articulated alternative and transfer alternative schools offer full academic instruction that lead up to a high school diploma while a majority of the special programs, transitional and retrieval programs, offer Pre GED and GED classes.

The articulated alternative high schools accept 9th grade students, and the transfer alternatives often accept older students as transfers from other high schools. Transfer

alternative high schools exhibit the highest percentage (57.9%) of students who continue on for their fifth year of high school. [31]

Many of the retrieval/GED programs are designed for students facing special problems, ranging from substance abuse to involvement in the juvenile or criminal justice system. Special programs, specifically the retrieval/GED programs, have the highest drop out rates at 54%.[32]

Even though the new Regents graduation requirements for traditional academic high schools went into effect in 2000, students at 20 alternative schools were granted a partial exemption from the requirements until February 2001. During this time, students met graduation requirements by fulfilling varying means of assessments. Examples of alternative assessments range from individually tailored projects, portfolios, to simple oral examinations. A majority of the alternative schools relied on portfolio work, including research projects, internships, literary essays, science experiments, and mathematical projects. This provided an alternative of sorts to the stricter graduation requirements at the more traditional academic zoned high schools.

However, beginning in February 2001, alternative high schools are no longer exempt from following the State High School Diploma model. Portfolios are no longer sufficient and, as in all other schools, students at alternative high schools will be required to pass the Regents English and Math exams in order to obtain a high school diploma. Vocational high schools have also had to face this change: students who attend vocational high schools must now also meet Regents requirements or attain a GED. Thus, with the adoption of the new Regents standards, the one remaining safety net for at-risk students that allowed them to obtain a regular high school diploma, was eliminated.

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[31] The Class of 2001 Four Year Longitudinal Report and 2000- 2001 Event Dropout Rates. New York City: Department of Education. [2002]

[32] The Class of 2001 Four Year Longitudinal Report and 2000- 2001 Event Dropout Rates. New York City: Department of Education. [2002]

We conducted a survey of some of the alternative schools for the purposes of trying to assess appropriate program options for many of their at-risk clients. Many schools reported that they would not accept students with less than 15 credits or who were over a certain age. By making their entrance criteria much tougher, they are leaving many at-risk students with no options.

B. Adult Education Programs (GED)

Compounding the disturbingly low proportion of students who graduate from the New York City public schools, is the fact that 15% of students defined as graduates received only a GED.

The GED is not an equivalent alternative to a regular high school diploma. GED recipients do not fare as well as high school graduates in the labor market and in post secondary education. Students with GEDs earn less, are more likely to depend on public assistance, or be unemployed than high school graduates. Males who have regular high school degrees but no college degree earn 14 to 23 percent more than male GED recipients.[33] Although over 95 percent of all academic institutions of higher learning accept GED recipients as students, the percentage of these recipients who finish post secondary education is far lower than those with high school diplomas.[34] Only 2% of GED holders obtain a four-year college degree.[35]

In New York City alone, there are more than 100 adult education programs ranging from remedial high school classes to GED prep classes. The GED program has seen a rise in

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[33] Murnane, Richard J., John B. Willet, and John H. Tyler. Who Benefits from Obtaining a GED? Evidence from High School and Beyond. National Bureau of Economic Research, working paper. 1999

[34] Ibid.

[35] Chaplin, Duncan. GEDs for Teenagers: Are There Unintended Consequences?. Washington, D.C: Urban Institute, 1999.

the number of individuals taking the test yearly since its inception. Of the 72,970 New Yorkers taking the test in 2001, 36.8% were under 20 years old. [36]

In January 2002, the American Council on Education released a new GED exam, which is considered to be more difficult than prior versions of the test. According to the New York Citywide School to Work Alliance, the new GED test is much harder, with more focus on higher order thinking skills and critical analysis. [37]

New York State law sets out the eligibility criteria for eligible test-takers. State regulation allows students who are of compulsory school age to take the GED only under certain limited circumstances. Students who are 17 to 18-years-old are only eligible to take the test under certain circumstances, which include enrollment in an alternative high school or job core, or confinement to a detention facility, or other institution.

Moreover, the adult education community, which was designed to teach students with an average age of 35, does not believe it is prepared to address the needs of younger students who have literacy, behavior, and social needs. Nor are they sufficiently funded to do this.[38]

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[36] "Who Took the GED Tests" Center for Adult Learning & Education Credentials American Council on Education. 05 Sep. 2002 <http://www.acenet.edu/calec/ged/whotook-A.cfm>

[37] Alliance Briefing, infra, at 3.

[38] Alliance Briefing at 4-5.

IV. Conclusion and Recommendations

Discharge data and anecdotal evidence lead to two conclusions. First, an alarming number of students are exiting New York City public high schools before graduation. It appears that some school officials are encouraging students to leave regular high school programs. Second, the DOE s discharge data is unclear, making it impossible to determine why students left the school, and where they are going.

The Advocates for Children and the Public Advocate Betsy Gotbaum recommend the following:

1) The Department of Education Must Collect Detailed Data for an Accurate Picture of Discharges

If students are discharged, barred from enrollment, or are dropping out of school because they are denied support services, DOE should conduct an extensive analysis of which students are affected. The following groups of data should be compiled:

- A clear breakdown of all discharges and dropouts for students ages 21 and under, and the reasons they are no longer in the public school system.

- The number of students under the age of 21 who are seeking or enrolled in GED programs.

- The number of discharged students and their educational status prior to being discharged.

- The number of discharge students over 17 who have been moved, pushed out, or encouraged to go to GED or other program.

- The number of all special education students, who receive Section 504 or ERSS services who were discharged.

- The number of ELL students who have been discharged.

Compiling the data will provide the basis for developing programs and solutions to address the problems.

2) Immediate Directives about Educational Rights Must be Issued by the Department of Education

The Department of Education must send out a directive from the Chancellor to the High School Admissions Office, all principals and superintendents informing them of the requirements for educating students up to the age of 21. The directive must state that involuntary transfers do not comply with the law. In addition, DOE must remind school officials of their obligation under state and city law to provide tutoring, academic intervention services, screening, and referral to appropriate programs for those students who may have disabilities.

3) Options Offered to Discharged Students

Student who were improperly discharged, transferred, or refused enrollment should get a letter from the DOE outlining their rights and a method of re-enrolling and obtaining services needed.

The DOE could also create special school programs to assist these students. Examples include:

- Create in-school literacy building programs that employ research-based methods for older students in the school system (many students do not appear to be GED-ready, as their literacy skills are too low).

- Develop a special intensive program to teach Math A and screen students if it is found that many students who entered high school with the goal of passing the former math exam are provided appropriate instruction to take and pass the Math A regents.
- Intensive tutoring programs that allow students to meet their Regents requirements should be developed. Outreach should be conducted to reach all students who may be in this category.

4) NYSED Needs to Monitor the City s Policies

The New York State Education Department must determine whether City schools are pushing at-risk students out. If so, policies must be revised and laws protecting students must be enforced to ensure that students are not denied educational services to which they are entitled.

5) The Department of Education Needs to Ensure Local Policy Compliance

The Department should ensure that all existing regulations comport with relevant state and federal law and, if not, revise those policies.

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